

REFERENCE TITLE: real estate disclosure; training ranges.

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2495

Introduced by
Representatives Burns J, McClure, Nelson, Paton, Senators Arzberger, Bee,
O'Halleran: Representatives Alvarez, Farley, Pancrazi, Prezelski

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.28; AMENDING TITLE 11, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-812; AMENDING SECTIONS 32-2115 AND 33-422, ARIZONA REVISED STATUTES; RELATING TO REAL PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
3 amended by adding section 9-500.28, to read:

4 9-500.28. Disclosure of filings in sensitive electronic testing
5 range of military base; definition

6 A. A CITY OR TOWN THAT CONTAINS ANY PORTION OF THE SENSITIVE
7 ELECTRONIC TESTING RANGE OF A MILITARY BASE SHALL NOTIFY THE OFFICE OF THE
8 BASE COMMANDER WHEN AN APPLICATION IS RECEIVED BY THE CITY OR TOWN TO DO ANY
9 OF THE FOLLOWING WITHIN ANY PORTION OF THE SENSITIVE ELECTRONIC TESTING
10 RANGE:

11 1. REZONE THE PROPERTY.

12 2. ISSUE A BUILDING OR OTHER DEVELOPMENT PERMIT, INCLUDING AN
13 APPLICATION FOR CONSTRUCTION OR INSTALLATION OF A PUBLICLY OR PRIVATELY
14 OPERATED UTILITY, FOR THE PROPERTY.

15 3. SUBDIVIDE THE PROPERTY OR OTHERWISE DIVIDE THE PROPERTY, INCLUDING
16 ANY LAND DIVISION INTO FIVE OR FEWER LOTS, WHETHER FOR RESIDENTIAL,
17 INDUSTRIAL, COMMERCIAL OR ANY OTHER USE.

18 B. A CITY OR TOWN THAT PROVIDES NOTICE AS PRESCRIBED BY SUBSECTION A
19 SHALL CONFER WITH THE OFFICE OF THE BASE COMMANDER REGARDING THE APPLICATION
20 ON REQUEST OF THE BASE COMMANDER.

21 C. THIS SECTION DOES NOT PROVIDE FOR ADDITIONAL AUTHORITY, RIGHTS OR
22 REMEDIES FOR A MILITARY BASE FOR ANY APPLICATIONS OR OTHER PROPOSALS
23 REGARDING THE SENSITIVE ELECTRONIC TESTING RANGE AND ANY ACTION OR PROPOSED
24 ACTION BY THE CITY OR TOWN SHALL BE GOVERNED AS OTHERWISE PROVIDED BY LAW.

25 D. THE SENSITIVE ELECTRONIC TESTING RANGE SHALL BE DELINEATED ON A MAP
26 CERTIFIED BY THE BASE COMMANDER. THIS MAP SHALL BE FILED WITH THE STATE REAL
27 ESTATE DEPARTMENT.

28 E. FOR THE PURPOSES OF THIS SECTION, "SENSITIVE ELECTRONIC TESTING
29 RANGE" MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC
30 COMMUNICATION, MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF
31 THE MILITARY MISSION OF A MILITARY BASE.

32 Sec. 2. Title 11, chapter 6, article 1, Arizona Revised Statutes, is
33 amended by adding section 11-812, to read:

34 11-812. Disclosure of filings in sensitive electronic testing
35 range of military base; definition

36 A. A COUNTY THAT CONTAINS ANY PORTION OF THE SENSITIVE ELECTRONIC
37 TESTING RANGE OF A MILITARY BASE SHALL NOTIFY THE OFFICE OF THE BASE
38 COMMANDER WHEN AN APPLICATION IS RECEIVED BY THE COUNTY TO DO ANY OF THE
39 FOLLOWING WITHIN ANY PORTION OF THE SENSITIVE ELECTRONIC TESTING RANGE:

40 1. REZONE THE PROPERTY.

41 2. ISSUE A BUILDING OR OTHER DEVELOPMENT PERMIT, INCLUDING AN
42 APPLICATION FOR CONSTRUCTION OR INSTALLATION OF A PUBLICLY OR PRIVATELY
43 OPERATED UTILITY, FOR THE PROPERTY.

1 3. SUBDIVIDE THE PROPERTY OR OTHERWISE DIVIDE THE PROPERTY, INCLUDING
2 ANY LAND DIVISION INTO FIVE OR FEWER LOTS, WHETHER FOR RESIDENTIAL,
3 INDUSTRIAL, COMMERCIAL OR ANY OTHER USE.

4 B. A COUNTY THAT PROVIDES NOTICE AS PRESCRIBED BY SUBSECTION A SHALL
5 CONFER WITH THE OFFICE OF THE BASE COMMANDER REGARDING THE APPLICATION ON
6 REQUEST OF THE BASE COMMANDER.

7 C. THIS SECTION DOES NOT PROVIDE FOR ADDITIONAL AUTHORITY, RIGHTS OR
8 REMEDIES FOR A MILITARY BASE FOR ANY APPLICATIONS OR OTHER PROPOSALS
9 REGARDING THE SENSITIVE ELECTRONIC TESTING RANGE AND ANY ACTION OR PROPOSED
10 ACTION BY THE COUNTY SHALL BE GOVERNED AS OTHERWISE PROVIDED BY LAW.

11 D. THE SENSITIVE ELECTRONIC TESTING RANGE SHALL BE DELINEATED ON A MAP
12 CERTIFIED BY THE BASE COMMANDER. THIS MAP SHALL BE FILED WITH THE STATE REAL
13 ESTATE DEPARTMENT.

14 E. FOR THE PURPOSES OF THIS SECTION, "SENSITIVE ELECTRONIC TESTING
15 RANGE" MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC
16 COMMUNICATION, MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF
17 THE MILITARY MISSION OF A MILITARY BASE.

18 Sec. 3. Section 32-2115, Arizona Revised Statutes, is amended to read:

19 32-2115. Department's website; military training route map;
20 restricted air space map; sensitive electronic
21 testing range map

22 A. The department shall post on its ~~web-site~~ WEBSITE the military
23 training route map and the restricted air space map prepared by the state
24 land department pursuant to section 37-102.

25 B. THE DEPARTMENT SHALL POST ON ITS WEBSITE ANY MAP THAT DELINEATES
26 THE SENSITIVE ELECTRONIC TESTING RANGE OF A MILITARY BASE, THAT IS AUTHORIZED
27 BY THE BASE COMMANDER AND THAT IS FILED PURSUANT TO SECTION 9-500.28 OR
28 11-812. THE DEPARTMENT SHALL NOT RECORD THE SENSITIVE ELECTRONIC TESTING
29 RANGE MAP, AND INCLUSION ON THE MAP DOES NOT INDEPENDENTLY CONSTITUTE A
30 RESTRICTION ON THE USE OR DEVELOPMENT OF THE LAND.

31 Sec. 4. Section 33-422, Arizona Revised Statutes, is amended to read:

32 33-422. Land divisions; recording; disclosure affidavit

33 A. A seller of five or fewer parcels of land, other than subdivided
34 land, in an unincorporated area of a county and any subsequent seller of such
35 a parcel shall furnish a written affidavit of disclosure to the buyer, at
36 least seven days before the transfer of the property, and the buyer shall
37 acknowledge receipt of the affidavit.

38 B. The affidavit must be written in twelve point type.

39 C. No release or waiver of a seller's liability arising out of any
40 omission or misrepresentation contained in an affidavit of disclosure is
41 valid or binding on the buyer.

42 D. The buyer has the right to rescind the sales transaction for a
43 period of five days after the affidavit of disclosure is furnished to the
44 buyer.

1 E. The seller shall record the executed affidavit of disclosure at the
2 same time that the deed is recorded. The county recorder is not required to
3 verify the accuracy of any statement in the affidavit of disclosure. A
4 subsequently recorded affidavit supersedes any previous affidavit.

5 F. The affidavit of disclosure shall meet the requirements of section
6 11-480 and follow substantially the following form:

7 When recorded mail to:

8 _____
9 _____
10 _____
11 _____

12 Affidavit of Disclosure
13 Pursuant to A.R.S. §33-422

14 I, _____ (seller(s))
15 being duly sworn, hereby make this affidavit of disclosure
16 relating to the real property situated in the unincorporated
17 area of:

18 _____, County, State of Arizona, located at:
19 _____

20 and legally described as:
21 (Legal description attached hereto as exhibit "A")
22 (property).

23 1. There is is not legal access to the property, as
24 defined in A.R.S. § 11-809 unknown

25 Explain: _____
26 _____
27 _____

28 2. There is is not physical access to the property.
29 unknown

30 Explain: _____
31 _____
32 _____

33 3. There is is not a statement from a licensed
34 surveyor or engineer available stating whether the property has
35 physical access that is traversable by a two-wheel drive passenger
36 motor vehicle.

37 4. The legal and physical access to the property is is not
38 the same.... unknown not applicable.

39 Explain: _____
40 _____
41 _____

42 *If access to the parcel is not traversable by emergency
43 vehicles, the county and emergency service providers may not be
44 held liable for any damages resulting from the inability to
45 traverse the access to provide needed services.*

1 5. The road(s) is/are publicly maintained privately
2 maintained not maintained not applicable. If
3 applicable, there is is not a recorded road
4 maintenance agreement.

5 *If the roads are not publicly maintained, it is the
6 responsibility of the property owner(s) to maintain the roads
7 and roads that are not improved to county standards and accepted
8 for maintenance are not the county's responsibility.*

9 6. A portion or all of the property is is not
10 located in a FEMA designated regulatory floodplain. If the
11 property is in a floodplain, it may be subject to floodplain
12 regulation.

13 7. The property is is not subject to fissures or
14 expansive soils. unknown

15 Explain: _____

16 _____

17 _____

18 8. The following services are currently provided to the property:
19 water sewer electric natural gas single
20 party telephone cable television services.

21 9. The property is is not served by a water supply
22 that requires the transportation of water to the property.

23 10. The property is served by a private water company a
24 municipal water provider a private well a shared well
25 no well. If served by a shared well, the shared well is
26 is not a public water system, as defined by the safe
27 drinking water act (42 United States Code § 300f).

28 *Notice to buyer: If the property is served by a well, A private
29 water company or a municipal water provider the Arizona
30 department of water resources may not have made a water supply
31 determination. For more information about water supply, contact
32 the water provider.*

33 11. The property does have does not have an on-site
34 wastewater treatment facility (i.e., standard septic or
35 alternative system to treat and dispose of wastewater).
36 unknown. If applicable: a) The property will will not
37 require installation of an on-site wastewater treatment
38 facility; b) The on-site wastewater treatment facility has
39 has not been inspected.

40 12. The property has been has not been subject to a
41 percolation test. unknown.

42 13. The property does does not meet the minimum
43 applicable county zoning requirements of the applicable zoning
44 designation.

1 14. The sale of the property does does not . . . meet the
2 requirements of A.R.S. § 11-809 regarding land divisions. If those
3 requirements are not met, the property owner may not be able to
4 obtain a building permit. The seller or property owner shall
5 disclose each of the deficiencies to the buyer.

6 Explain: _____
7 _____
8 _____

9 15. The property is is not located in the clear zone of a
10 military airport or ancillary military facility, as defined in
11 A.R.S. § 28-8461. (Maps are available at the state real estate
12 department's ~~web-site~~ WEBSITE.)

13 16. The property is is not located in the high noise or
14 accident potential zone of a military airport or ancillary military
15 facility, as defined in A.R.S. § 28-8461. (Maps are available at
16 the state real estate department's ~~web-site~~ WEBSITE.)

17 17. Notice: If the property is located within the territory in the
18 vicinity of a military airport or ancillary military facility, the
19 property is required to comply with sound attenuation standards as
20 prescribed by A.R.S. § 28-8482. (Maps are available at the state
21 real estate department's ~~web-site~~ WEBSITE.)

22 18. The property is is not located under military restricted
23 airspace. unknown. (Maps are available at the state real
24 estate department's web site.)

25 19. THE PROPERTY IS IS NOT LOCATED IN THE SENSITIVE ELECTRONIC
26 TESTING RANGE OF A MILITARY BASE AS DEFINED IN A.R.S. SECTIONS
27 9-500.28 AND 11-812. UNKNOWN. (MAPS ARE AVAILABLE AT THE STATE
28 REAL ESTATE DEPARTMENT'S WEBSITE.)

29 This affidavit of disclosure supersedes any previously recorded
30 affidavit of disclosure.

31 I certify under penalty of perjury that the information
32 contained in this affidavit is true, complete and correct
33 according to my best belief and knowledge.

34 Dated this _____ day of _____ by:

35 Seller's name (print): _____ Signature: _____

36 Seller's name (print): _____ Signature: _____

37 State of Arizona _____

38) ss.

39 County of _____)

40 Subscribed and sworn before me this _____ day of
41 _____ (year) , by _____.

42 _____ Notary public

43 My commission expires:
44 _____ (date)

1 Buyer(s) hereby acknowledges receipt of a copy of this affidavit
2 of disclosure this _____ (date) _____ day of _____ (year)
3 Buyer's name (print): _____ Signature: _____
4 Buyer's name (print): _____ Signature: _____

5 G. For the purposes of this section, seller and subsequent seller do
6 not include a trustee of a deed of trust who is selling property by a
7 trustee's sale pursuant to title 33, chapter 6.1 or any officer who is
8 selling property by execution sale pursuant to title 12, chapter 9 and
9 title 33, chapter 6. If the seller is a trustee of a subdivision trust as
10 defined in section 6-801, the disclosure affidavit required by this section
11 shall be provided by the beneficiary of the subdivision trust.